UNITED
NATIONS

CERD

International Convention on the
Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1212
26 March 1997

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fiftieth session

SUMMARY RECORD OF THE 1212th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 20 March 1997, at 3 p.m.

Chairman: Mr. BANTON

CONTENTS

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY-WARNING AND URGENT PROCEDURES (continued)

Situation in Rwanda

COLLECTION

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.97-15987 (E)

CONTENTS (continued)

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Draft concluding observations concerning the ninth and tenth periodic reports of Belgium

Draft concluding observations concerning the fourteenth periodic report of Iceland

Draft concluding observations concerning the eleventh periodic report of Mexico

The meeting was called to order at 3.05 p.m.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY-WARNING AND URGENT PROCEDURES (agenda item 4) (continued)

Situation in Rwanda

1. At the invitation of the Chairman, Mr. Ntashamaje and Mr. Gasana (Rwanda) took seats at the Committee table.

2. Mrs. SADIQ ALI (Country Rapporteur) welcomed the Rwandan delegation and said that events in that country had developed swiftly since the submission of the previous report in 1989. She requested the delegation to provide information on the status of returnees, refugees and displaced persons, the effects of the national reconciliation policy, the reconstruction of the State, trials of persons suspected of committing serious crimes and genocide, and the capacity of the Government and judiciary to bring the guilty to justice. She asked the delegation how the Committee could help Rwanda, when the Government expected to submit its next report, and whether it would require assistance from the Centre for Human Rights in drafting that report.

3. Mr. NTASHAMAJE (Rwanda) explained that since gaining independence in 1962, Rwanda had endured more than 30 years of "ethnic" discrimination. The distinctions made along "ethnic" lines by Belgian colonizers had created an artificial situation since the peoples of Rwanda shared a common language and culture. When the Government of National Unity had come to power in 1994, all forms of discrimination had been abolished. The Protocol of Agreement on the Rule of Law, which formed an integral part of Rwandan fundamental law, had removed any reference to ethnic origin from official documents, thereby allowing all persons access to schools, jobs and other sectors of national life solely on the basis of merit.

4. Referring to the specific questions asked by Mrs. Sadiq Ali, he said there were no longer displaced persons in Rwanda, following the dismantling of the Kibeho camp in April 1995. Former refugees had been received in transit centres and, after being given essential clothing, food and medicines, had returned to their regions of origin.

5. A number of measures had been taken by the local authorities to facilitate the recovery of property. Rwanda had a very severe housing shortage because many homes had been destroyed during the massacres of 1994. Most property belonging to the exiles from that period had been occupied by homeless survivors of the massacres and by impoverished refugees from other conflicts who had returned to Rwanda. Rules on the restitution of property, housing loans and assistance to the poverty-stricken had been instituted to alleviate the problem.

6. Turning to the powers of the Government and judiciary, he said that thanks to the assistance of the international community, the Rwandan courts had been able to begin trials of persons suspected of the crime of genocide or crimes against humanity committed in Rwanda between October 1990 and December 1994. The preparatory phase of assistance had consisted of the construction and repair of buildings, including courts and detention centres,

the training of judges and other personnel, the establishment of the Supreme Court and Supreme Council of Magistrates, and the adoption of new legislation for the prosecution of suspected perpetrators of genocide and crimes against humanity. Further help from the international community was nevertheless required in order to continue to deal with some 80,000 files on suspects, and strengthen prosecutors' offices in the areas of staffing, logistic support and equipment. There was also an urgent need for financial assistance to upgrade conditions in prisons, which were very overcrowded.

7. Two important measures had been adopted within the context of the programme of social reconstruction. Firstly, a national fund had been established for the award of grants as compensation and assistance to the survivors of the atrocities committed in 1994. Secondly, article 24 of the Protocol of Agreement on Power-Sharing, signed at Arusha in 1993, had provided for the establishment of a Commission for National Unity and National Reconciliation to prepare and coordinate all activities aimed at promoting unity and reconciliation among the Rwandan people. The bill for the establishment of that Commission had been submitted to the Transitional National Assembly one month earlier.

8. Mr. CHIGOVERA thanked the representative of Rwanda for his presentation and said that the information given would help the Committee to obtain an accurate idea of the situation in that country and to make appropriate suggestions to the Rwandan Government. He commended the efforts made by the Government in settling long-standing conflicts and appealed to the Government to continue its attempts to achieve reconciliation.

9. He asked the delegation to comment on coordination between the Rwandan judiciary and the international tribunal based in Arusha in bringing suspected perpetrators of genocide to trial. While acknowledging the serious handicap faced by the Rwandan judiciary in establishing a system to handle the large numbers of outstanding cases, he expressed concern at the conditions in which detainees were kept, and specifically at the prison overcrowding and prolonged periods of detention. He wondered whether alternative arrangements could be made to ease the plight of the more than 80,000 suspects, some of whom might eventually be freed and would subsequently feel that they had been subjected to great injustice.

10. Mr. de GOUTTES said that the Committee had been closely following the situation in Rwanda for several years and on previous occasions had adopted concluding observations, a declaration and a decision. The Committee had expressed a number of concerns relating to cooperation between the Rwandan Government and the international criminal tribunal, the role of the media, the importance of training law enforcement officers in human rights issues, the need for the restoration of the judicial system and the plight of detainees.

11. He referred to the establishment of a commission to screen cases and study the files on detainees. Information emanating from international organizations had indicated that the commission did not afford sufficient guarantees and could not replace competent judicial authorities. It was important to bear in mind that genuine jurisdiction required the provision of customary guarantees, under the instruction of qualified judges. He acknowledged that the reconstitution and reform of the Rawandan judicial

system were matters of priority, and reminded the delegation that the Committee could offer expertise in training and legislative reform.

12. Mr. ABOUL-NASR expressed appreciation for the opportunity to hear a first-hand account of the situation in Rwanda. He asked what kind of international assistance had been provided and whether such assistance had been sufficient. He also wondered whether the Government of Rwanda believed it had been fairly treated by the Security Council, and was curious to know the Government's expectations of the international tribunal.

13. Mr. SHAHI said the Committee was appalled by the scale of the massacres committed in Rwanda. It remained a matter of concern that large numbers of suspects would be detained for a protracted period. He considered it of paramount importance to reinforce the Rwandan judicial system in order to deal expeditiously with the cases before it. In that context, he endorsed the observations made by Mr. de Gouttes and Mr. Aboul-Nasr, and hoped that they would receive the attention of the Rwandan Government.

14. Mr. SHERIFIS said that the entire international community had been moved by the events which had led to the massive flows of refugees and displaced persons. He expressed the hope that the tragedy and agony suffered by the Rwandan people would inspire all concerned to endeavour to remedy the situation. Only six to eight months earlier, the Committee had adopted a recommendation on the plight of refugees and displaced persons; he urged the Rwandan Government to give serious attention to that recommendation. He wondered how the Governemnt assessed its ability to implement the recommendation, particularly with regard to the restitution of property. In closing, he wished Rwanda peace, security and harmony in the future.

15. The CHAIRMAN, noting that the situation in Rwanda was also being considered within the context of agenda item 5, said he wished to stress the many advantages, both to the State and to the Committee, of conducting a dialogue on the basis of a report. Unfortunately, no periodic report had been submitted. He accordingly suggested that the delegation should contact the Centre for Human Rights to discuss assistance in preparing its next report.

16. Mr. NTASHAMAJE (Rwanda) thanked the speakers for their comments and apologized for the delay in submitting the periodic report. He assured the Committee that the matter would be pursued as a matter of priority.

17. He wished to make a clarification: there had not been ethnic conflicts in Rwanda, but rather, ethnic discrimination.

18. Turning to the question of coordination between the Rwandan judicial system and the international judicial system, he said the two jurisdictions had competing fields of competence, with primacy given to the international tribunal. The two systems did not operate in parallel. The international tribunal was expected to try the masterminds behind the acts of genocide who had taken refuge outside the country, whereas the national judicial system had jurisdiction over those persons who were currently in the country or who would eventually be extradited.

19. While he appreciated the reasons why the international tribunal could not apply the death sentence, it must be understood that after the atrocities that had been committed in Rwanda, neither the Government nor public opinion in Rwanda was ready for abolition of the death penalty. Cooperation with the international tribunal was proceeding fairly satisfactorily on the whole, with exchanges of records and information, although the Government was critical of some aspects of the tribunal's work. For example, it deplored the fact that a number of persons now being prosecuted by the tribunal were not the principal offenders. Another criticism was that the person specially designated by the tribunal to conduct investigations and coordinate prosecutions should be a prosecutor, based in Kigali, and not a deputy prosecutor as was now the case. It also deplored the constant postponement of proceedings, with tribunal judges deferring to dilatory arguments by defence lawyers.

20. The Government was fully aware of the plight of detainees, but it was necessary to ensure that there could be no impunity for those who had committed the crimes. So massive had been the scale of the genocide that it was not surprising that there should be 80,000 persons in prison. Constant appeals had been made to the international community to assist in improving the conditions of detention, which could be done by expanding the capacity of existing prisons and building new ones. After the massive return of refugees, there had naturally been an increase in the number of arrests, since they included many people who had been involved in the massacres. The Government had had to take steps to reduce the prison population, for example by releasing those who had committed offences against property or minor ordinary offences. Regarding the screening or sorting commissions, which had come under some criticism, it must be borne in mind that in 1995, when they had been set up, the Public Prosecutor's Office, which had been and still was grossly understaffed, had simply been unable to cope with the situation. The commissions, which had been composed of local administrative, military and other personnel, had not proved very effective, largely because of acute logistical difficulties - lack of vehicles, petrol, office supplies, etc. - and time constraints, since most of their members held other posts as well. They had done what they could, but the Ministry of Justice shared the view that their work should be taken over by prosecutors' offices.

21. On the subject of the role of the media, the Government was working on a press bill which would allow for freedom of expression but also take account of the need to avoid the errors of the past, such as the use of the media to stir up hatred. With regard to human rights education, awareness seminars had been and were continuing to be organized, with the assistance of UNHCR and the Office of the High Commissioner for Human Rights, for the training of members of the judiciary in particular. He was grateful to the Committee for its offer of assistance and hoped that a meeting could be arranged with the Committee in due course to determine the kind of support needed.

22. Addressing the question of international assistance to the judiciary, he said that there were now foreign legal advisers working with the prosecutors' offices and criminal investigation service. There was, however, an acute shortage of defence lawyers. There was as yet no bar association in Rwanda, although a bill was under preparation for that purpose. In the circumstances, it was extremely difficult to ensure that each and every one of the 80,000 detainees could exercise his legal right to be assigned a defence

counsel, and there had been cases of persons brought to trial without counsel. The Government had appealed to the international community for assistance in that regard, in addition to the valuable assistance being provided by the NGO "Avocats sans frontières". A suggestion that foreign judges should be authorized to assist Rwandan judges in court proceedings had been refused by the Government, principally on account of the language problem, but it had accepted the services of foreign jurists as legal advisers.

23. Regarding the property of returnees, the Government had reaffirmed the inalienable right to property. When the rightful owner returned home, any illegal occupant was given, in principle, 15 days to vacate the premises. In practice, however, mainly because of the difficulty in finding alternative lodgings, the rule was applied flexibly and a compromise was usually reached. Most returnees had recovered their property, and the Government was determined to settle the problem satisfactorily.

24. Mr. GASANA (Rwanda), addressing the questions asked by Mr. Aboul-Nasr, said that over 50 years previously the United Nations had pledged that there would be no more genocide or crimes against humanity, and yet genocide had occurred in full view of everyone. That was why the Government of Rwanda considered it legitimate that the international community should come to its assistance, especially as there had been United Nations forces in the country at the time. But those forces had been scaled down and then withdrawn. Elsewhere, at another time, the whole international community had been mobilized and the Marshall Plan had been introduced. Although some humanitarian, educational and other assistance had been provided, for which Rwanda was grateful, a greater sense of responsibility was needed towards a people who had suffered so much. Naturally Rwanda was not satisfied with the assistance given, and would not be as long as the international community failed to understand that Rwanda, too, was a member of the United Nations family. Reconciliation was only possible if the international community's approach to the Rwandan question was "de-ethnicized"; its assistance could only be of use if the people of Rwanda were seen first and foremost as Rwandans and not just as Hutus and Tutsis. The ideology of ethnic difference must cease; it was a virus against which a vaccination must be found.

25. His Government was not against constructive criticism or intervention that could help it to rebuild the country; what it refused to accept was dictatorial interference and attempts to impose solutions that failed to take account of the reality on the ground. It must be understood that it was for the Rwandan people and Government to determine their own priorities. His presence before the Committee testified to the Government's openness to dialogue. But dialogue presupposed familiarity with the real problems, which could only be gained by visiting the country and speaking to the Rwandan people. Without first-hand experience, an outsider - and the media - could not appreciate the full horror of what had happened and the ruined lives of those who had survived. Detainees were not the only problem. The restitution of property, too, was a highly complex matter, as evidenced by the fact that some former owners had been involved in the massacres.

26. The CHAIRMAN assured the representative that his remarks spoke to the Committee's sentiments of solidarity.

27. Mrs. SADIQ ALI (Country Rapporteur) said that the major problems appeared to be the judiciary and the need for international support. While

the Committee would perhaps not be in a position to go to Rwanda, it felt a sense of solidarity towards Rwanda and would do everything in its power to encourage the international community to provide assistance. She asked what steps had been taken to achieve national reconciliation.

28. Mr. GASANA (Rwanda) said that, while justice was one of the major factors in reconciliation, the main problem was not the judicial system; it was a socio-economic problem of great complexity. The Rwandan people and Government were more concerned than any foreigner about national reconciliation, which could only come about if the country had the means to rebuild the social and economic foundations of society. In the two or three years since the forming of a Government of national unity, the international community had provided only minimal resources to enable it to translate its vision for a new Rwanda into reality. Hundreds of thousands of Rwandans had only just returned, and reconciliation was a slow process, and yet the international community was impatient and pointed an accusing finger at the Government for what it had allegedly failed to do. It was responsible for determining its own policies and, given the necessary means, would be able to achieve its ends.

29. The CHAIRMAN observed that the Committee had been the first body within the United Nations system to have drawn attention to the impending dangers in Rwanda and Burundi, many years previously. Over the years, it had gained a profound understanding of many features of the situation in the region and had heard explanations from the Governments of both countries to the effect that relations between Hutus and Tutsis were not ethnic relations in the way that might be understood in other parts of the world. The Committee understood the scale and complexity of the problems and was aware that they could not be solved rapidly. That did not detract from its hope that it could play a constructive role in inducing others to take the necessary action. He looked forward to a further meeting with the representatives of Rwanda in the near future, at which time he hoped that the prospects for the country would be more promising.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Draft concluding observations concerning the ninth and tenth periodic reports of Belgium (CERD/C/50/Misc.19) (continued)

Paragraph 18

30. Mr. de GOUTTES proposed that paragraph 18 should be deleted.

Paragraph 19

31. Mr. de GOUTTES suggested that a new sentence should be inserted before "The Committee recommends" which would read: "The Committee suggests that the Act of 23 March 1995 which prohibits the denial, minimization, justification or approval of the genocide committed by the German National Socialist regime during the Second World War be broadened to cover the different types of genocide."

Paragraph 24

32. After a brief discussion in which Mr. YUTZIS, Mr. RECHETOV, Mr. SHERIFIS, Mr. VALENCIA RODRIGUEZ and Mr. de GOUTTES took part, the CHAIRMAN said that the final two sentences would be deleted.

33. The draft concluding observations concerning the ninth and tenth periodic reports of Belgium as a whole, as amended, were adopted subject to minor drafting changes.

Draft concluding observations concerning the fourteenth periodic report of Iceland (CERD/C/50/Misc.20)

Paragraph 11

34. Mr. ABOUL-NASR considered that paragraph 11 was redundant and should be deleted. The Committee should not single out any individual State party with regard to the incorporation of the Convention into national law.

35. Mr. RECHETOV said that Iceland's legal system clearly provided for the incorporation of international instruments into national law, as could be seen from paragraph 8 of the report (CERD/C/299/Add.4), although the process was lengthy. The paragraph merely aimed to remind the authorities that the Convention was among the international instruments to which Iceland was a party that was still not part of its national law.

36. Mr. CHIGOVERA said that he had serious reservations as to what exactly "incorporate the provisions" meant. For the Committee, the question was not just one of incorporation but the effective implementation of the Convention.

37. The CHAIRMAN suggested that "consider giving effect to" should replace "incorporate".

38. Mr. RECHETOV said that he could not support that proposal as the periodic report explicitly stated that Icelandic law provided for the incorporation of international human rights instruments.

39. The CHAIRMAN said that, as he understood it, if the Committee diluted paragraph 11, it would be worse than useless; consequently, he proposed deleting the entire paragraph.

40. The draft concluding observations concerning the fourteenth periodic report of Iceland as a whole, as amended, were adopted subject to minor drafting changes.

Draft concluding observations concerning the eleventh periodic report of Mexico (CERD/C/50/Misc.24)

Paragraph 11

41. Mr. YUTZIS suggested making it clear, at the end of the paragraph, that the concerns expressed related in particular to indigenous groups.

42. Mr. de GOUTTES (Country Rapporteur) said that that was already implicit in the paragraph's first sentence. For his part, he proposed inserting, at the end of the first sentence, following the words "persons active in promoting and defending human rights", the following phrase: "who are victims of various violations of human rights". The second sentence would then be deleted, and the last two sentences would remain unchanged.

Paragraph 13

43. Mr. LECHUGA HEVIA asked where the assertion that the North American Free Trade Agreement seemed to have compounded the plight of vulnerable populations had come from?

44. Mr. de GOUTTES (Country Rapporteur) replied that he had drawn upon what had already been stated in the previous concluding observations.

45. Mr. YUTZIS said that although he believed the North American Free Trade Agreement had, in fact, aggravated the plight of vulnerable populations, he was opposed to any such reference in the paragraph; if the Committee criticized the economic model of one country, it must criticize that of others as well. He was in favour of deleting the sentence concerned.

46. Mr. de GOUTTES (Country Rapporteur) said that he had no objection to its deletion.

47. Mr. CHIGOVERA said that he was having great difficulty following the debate, because the text was only available in French.

48. Mr. RECHETOV said that on the previous day the Committee had decided not to consider a text which had been available in English, but for some reason had decided to defer it until the next session. He had voted against that decision. At present, the Committee was considering a large, important country with significant ethnic problems, for which concluding observations were being adopted in haste, without a full understanding of the text. He therefore proposed that the Committee should defer consideration of the draft concluding observations on Mexico until the next session. A text should not be adopted if members were not completely familiar with its content.

49. Mr. SHERIFIS also expressed dissatisfaction with the Committee's working method. The Committee must not pass judgement on important issues hurriedly. Not everyone understood the language in which the draft concluding observations were written. If the Committee adopted them, it would be doing justice neither to the State party nor to itself.

50. Mr. de GOUTTES (Country Rapporteur) said that the day before the Committee had deferred consideration of the concluding observations on the Republic of Iraq, but not because of a language problem. He noted that the Committee was not prepared to adopt a text even though it was available in one of the languages of the United Nations.

51. Mr. GARVALOV said that, in his view, the text was too critical of Mexico.

52. Mr. ABOUL-NASR agreed. He believed that the draft concluding observations must be recast. He, too, was in favour of deferring consideration of Mexico until the next session.

53. Mr. LECHUGA HEVIA said that the situation was similar to that which had obtained with Iraq. The Committee had before it an important, critical report which it had not had time to study. He was in favour of postponement.

54. Mr. CHIGOVERA said that he favoured postponing consideration until the next day, but not until the next session.

55. Mr. de GOUTTES (Country Rapporteur) supported the remarks of the previous speaker.

56. The CHAIRMAN reminded the members of the Committee that, pursuant to rule 42 of the rules of procedure, during the discussion of any matter, a member could move the adjournment of the debate on the item under discussion. In addition to the proposer of the motion, one member could speak in favour of and one against the motion, after which the motion must immediately be put to the vote.

57. Mr. ABOUL-NASR moved that, pursuant to rule 42, consideration of the draft concluding observations concerning the eleventh periodic report of Mexico be adjourned until the next session.

58. Mr. de GOUTTES (Country Rapporteur) said that insofar as it was impossible to have the text translated into English for the next day, he supported the motion.

59. Mr. CHIGOVERA said that he was against the motion. That new development suggested that the Committee had failed to exercise its responsibilities under article 8. The Committee had the capability to complete the items on its agenda at the current session. He pointed out that the workload for the next session was no lighter than for the current one.

60. The CHAIRMAN put the motion to the vote.

61. The motion was adopted by 8 votes to 3, with 1 abstention.

62. Mr. de GOUTTES (Country Rapporteur) speaking in explanation of vote, said that although he was not opposed to deferring consideration of Mexico, he had voted against the motion, because by taking that decision, the Committee was favouring one language over another; the main reason for the postponement was that the text was in French.

63. Mr. YUTZIS, speaking in explanation of vote, said that he regretted the postponement of the draft concluding observations on Mexico, which together with the similar decision concerning Iraq set a bad precedent. In the specific case of Mexico, he had voted in favour of the motion because appropriate conditions for a discussion in the Committee did not at present exist. That was not a question of favouritism, but merely the reality of the current situation.

The meeting rose at 6 p.m.